

HOUSE BILL No. 1409

DIGEST OF INTRODUCED BILL

Citations Affected: IC 23-2-5.

Synopsis: Loan broker commission. Creates the 13 member loan broker commission, consisting of the securities commissioner and 12 members appointed by the governor, including one member representing each of the state's congressional districts. Requires the commission to oversee the: (1) licensing of loan brokers; (2) registration of originators; and (3) registration of principal managers. (Current law requires the securities commissioner of the office of the secretary of state to oversee the licensing and registration of loan brokers, originators, and principal managers.) Sets forth procedures for the appointment of the initial members of the commission.

Effective: Upon passage; July 1, 2009.

Burton

January 13, 2009, read first time and referred to Committee on Rules and Legislative Procedures.

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Introduced

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

HOUSE BILL No. 1409

A BILL FOR AN ACT to amend the Indiana Code concerning business and other associations.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 23-2-5-0.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2009]: **Sec. 0.5. As used in this chapter, "commission" refers to**
4 **the Indiana loan broker commission established by section 3.3 of**
5 **this chapter.**

6 SECTION 2. IC 23-2-5-3, AS AMENDED BY P.L.145-2008,
7 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 2009]: Sec. 3. (a) As used in this chapter, "certificate of
9 registration" means a certificate issued by the ~~commissioner~~
10 **commission** authorizing an individual to:

11 (1) engage in origination activities on behalf of a licensee; or

12 (2) act as a principal manager on behalf of a licensee.

13 (b) As used in this chapter, "license" means a license issued by the
14 ~~commissioner~~ **commission** authorizing a person to engage in the loan
15 brokerage business.

16 (c) As used in this chapter, "licensee" means a person that is issued
17 a license under this chapter.

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(d) As used in this chapter, "loan broker" means any person who, in return for any consideration from any source procures, attempts to procure, or assists in procuring, a loan from a third party or any other person, whether or not the person seeking the loan actually obtains the loan. "Loan broker" does not include:

(1) any supervised financial organization (as defined in IC 24-4.5-1-301(20)), including a bank, savings bank, trust company, savings association, or credit union;

(2) any other financial institution that is:

(A) regulated by any agency of the United States or any state; and

(B) regularly actively engaged in the business of making consumer loans that are not secured by real estate or taking assignment of consumer sales contracts that are not secured by real estate;

(3) any insurance company;

(4) any person arranging financing for the sale of the person's product; or

(5) a creditor that is licensed under IC 24-4.4-2-402.

(e) As used in this chapter, "loan brokerage business" means a person acting as a loan broker.

(f) As used in this chapter, "origination activities" means communication with or assistance of a borrower or prospective borrower in the selection of loan products or terms.

(g) As used in this chapter, "originator" means a person engaged in origination activities. The term "originator" does not include a person who performs origination activities for any entity that is not a loan broker under subsection (d).

(h) As used in this chapter, "person" means an individual, a partnership, a trust, a corporation, a limited liability company, a limited liability partnership, a sole proprietorship, a joint venture, a joint stock company, or another group or entity, however organized.

(i) As used in this chapter, "registrant" means an individual who is registered:

(1) to engage in origination activities under this chapter; or

(2) as a principal manager.

(j) As used in this chapter, "ultimate equitable owner" means a person who, directly or indirectly, owns or controls ten percent (10%) or more of the equity interest in a loan broker licensed or required to be licensed under this chapter, regardless of whether the person owns or controls the equity interest through one (1) or more other persons or one (1) or more proxies, powers of attorney, or variances.

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(k) As used in this chapter, "principal manager" means an individual who:

(1) has at least three (3) years of experience:

(A) as a loan broker; or

(B) in financial services;

that is acceptable to the ~~commissioner~~; **commission**; and

(2) is principally responsible for the supervision and management of the employees and business affairs of a licensee.

(l) As used in this chapter, "personal information" includes any of the following:

(1) An individual's first and last names or first initial and last name.

(2) Any of the following data elements:

(A) A Social Security number.

(B) A driver's license number.

(C) A state identification card number.

(D) A credit card number.

(E) A financial account number or debit card number in combination with a security code, password, or access code that would permit access to the person's account.

(3) With respect to an individual, any of the following:

(A) Address.

(B) Telephone number.

(C) Information concerning the individual's:

(i) income or other compensation;

(ii) credit history;

(iii) credit score;

(iv) assets;

(v) liabilities; or

(vi) employment history.

(m) As used in this chapter, personal information is "encrypted" if the personal information:

(1) has been transformed through the use of an algorithmic process into a form in which there is a low probability of assigning meaning without use of a confidential process or key;

or

(2) is secured by another method that renders the personal information unreadable or unusable.

(n) As used in this chapter, personal information is "redacted" if the personal information has been altered or truncated so that not more than the last four (4) digits of:

(1) a Social Security number;

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1 (2) a driver's license number;
 2 (3) a state identification number; or
 3 (4) an account number;
 4 are accessible as part of the personal information.

5 SECTION 3. IC 23-2-5-3.3 IS ADDED TO THE INDIANA CODE
 6 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 7 1, 2009]: **Sec. 3.3. (a) The Indiana loan broker commission is**
 8 **established.**

9 **(b) The commission consists of the following:**

10 **(1) The commissioner or a designee of the commissioner.**

11 **(2) Twelve (12) members appointed by the governor as**
 12 **follows:**

13 **(A) Nine (9) district members. Each Indiana congressional**
 14 **district must be represented by one (1) individual**
 15 **appointed under this clause. A member appointed under**
 16 **this clause must:**

17 **(i) have been a resident of the represented congressional**
 18 **district for at least one (1) year; and**

19 **(ii) have engaged in the loan brokerage business for at**
 20 **least five (5) years.**

21 **(B) One (1) loan broker at large. A member appointed**
 22 **under this clause must have engaged in the loan brokerage**
 23 **business in Indiana for at least five (5) years.**

24 **(C) Two (2) citizen members at large. A member appointed**
 25 **under this clause:**

26 **(i) shall represent the general public;**

27 **(ii) must be a resident of Indiana; and**

28 **(iii) must have never been associated with the loan**
 29 **brokerage business in any way other than as a consumer.**

30 **(c) This subsection applies to a member appointed by the**
 31 **governor under subsection (b)(2). Each member shall serve a four**
 32 **(4) year term. A member whose term expires may be reappointed**
 33 **by the governor. If a member's term expires, the member shall**
 34 **continue to serve on the commission until:**

35 **(1) the member is reappointed; or**

36 **(2) a successor is appointed and qualified.**

37 **If a vacancy occurs on the commission, the governor shall appoint**
 38 **an individual to serve the unexpired term of the previous member**
 39 **and until a successor is appointed and qualified.**

40 **(d) A member of the commission may not hold a state or federal**
 41 **elective office.**

42 SECTION 4. IC 23-2-5-3.5 IS ADDED TO THE INDIANA CODE

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1 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
2 1, 2009]: Sec. 3.5. (a) The commissioner or the designee of the
3 commissioner is the chair of the commission.

4 (b) The commission shall elect from its membership a vice chair.
5 The vice chair shall serve in that capacity for one (1) year and until
6 a successor is elected. A member of the commission may not serve
7 as vice chair for more than two (2) consecutive terms.

8 (c) The chair shall preside at all meetings. The vice chair shall
9 preside at meetings in the absence of the chair and shall perform
10 other duties as the chair directs.

11 (d) The chair shall:

12 (1) provide reasonable notice to all commission members of
13 the date, time, and place of each meeting;

14 (2) keep a record of all meetings, votes taken by the
15 commission, and other proceedings;

16 (3) maintain current records on all licenses, licensees,
17 registrations, and registrants; and

18 (4) perform any other duties that the commission prescribes.

19 SECTION 5. IC 23-2-5-3.7 IS ADDED TO THE INDIANA CODE
20 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
21 1, 2009]: Sec. 3.7. (a) The commission shall meet at least annually
22 and at the call of the chair or at the written request of any eight (8)
23 members of the commission. The chair shall establish the date,
24 time, and place of all meetings.

25 (b) The presence of a majority of the current members of the
26 commission at a meeting constitutes a quorum for the purpose of
27 transacting business. A majority vote of all members present at a
28 meeting at which there is a quorum is necessary to bind the
29 commission.

30 (c) Any action required or permitted to be taken at a meeting of
31 the commission may be taken without a meeting if, before that
32 action:

33 (1) a written consent to the action, either executed as a single
34 document or in counterparts, is signed by all members of the
35 commission; or

36 (2) all members orally consent to the action and subsequently
37 confirm that consent in writing.

38 The written consent or confirmation must set forth the action
39 under consideration and must be filed with the minutes of the
40 meetings that are kept by the chair. A written consent or a
41 confirmed oral consent shall be treated for all purposes as a
42 unanimous vote of the members and as though the vote had taken

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place at a regular meeting of the commission.

SECTION 6. IC 23-2-5-3.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3.8. (a) Each member of the commission who is not a state employee is entitled:

(1) to the minimum salary per diem as provided in IC 4-10-11-2.1(b); and

(2) to reimbursement for traveling and other expenses, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) Each member of the commission who is a state employee is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

(c) The compensation and expenses of the commission members and the expenses of the commission shall be paid out of the state general fund as provided under section 7(c) of this chapter.

SECTION 7. IC 23-2-5-4, AS AMENDED BY P.L.145-2008, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) A person may not engage in the loan brokerage business in Indiana unless the person first obtains a license from the ~~commissioner~~ **commission**. Any person desiring to engage or continue in the loan brokerage business shall apply to the ~~commissioner~~ **commission** for a license under this chapter.

(b) An individual may not perform origination activities in Indiana on behalf of a person licensed or required to be licensed under this chapter unless the individual first obtains a certificate of registration from the ~~commissioner~~ **commission**. An individual desiring to engage in origination activities on behalf of a person licensed or required to be licensed under this chapter shall apply to the ~~commissioner~~ **commission** for registration under this chapter.

(c) An individual may not act as a principal manager on behalf of a person licensed or required to be licensed under this chapter unless the individual first obtains a certificate of registration from the ~~commissioner~~ **commission**. Any individual desiring to act as a principal manager on behalf of a person licensed or required to be licensed under this chapter shall apply to the ~~commissioner~~ **commission** for registration under this chapter.

(d) The ~~commissioner~~ **commission** may request evidence of

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compliance with this section at any of the following times:

(1) The time of application for an initial:

(A) license; or

(B) certificate of registration.

(2) The time of renewal of a license or certificate of registration.

(3) Any other time considered necessary by the ~~commissioner~~.

commission.

(e) For purposes of subsection (d), evidence of compliance with this section must include a criminal background check, including a national criminal history background check (as defined in IC 10-13-3-12) by the Federal Bureau of Investigation.

SECTION 8. IC 23-2-5-5, AS AMENDED BY P.L.145-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) An application for license or renewal of a license must contain:

(1) consent to service of process under subsection (h);

(2) evidence of the bond required in subsection (e);

(3) an application fee of four hundred dollars (\$400), plus two hundred dollars (\$200) for each ultimate equitable owner;

(4) an affidavit affirming that none of the applicant's ultimate equitable owners, directors, managers, or officers have been convicted, in any jurisdiction, of an offense involving fraud or deception that is punishable by at least one (1) year of imprisonment, unless waived by the ~~commissioner~~ **commission** under subsection (i);

(5) evidence that the applicant, if the applicant is an individual, has completed the education requirements under section 21 of this chapter;

(6) the name and registration number for each originator to be employed by the licensee;

(7) the name and registration number for each principal manager; and

(8) for each ultimate equitable owner, the following information:

(A) The name of the ultimate equitable owner.

(B) The address of the ultimate equitable owner, including the home address of the ultimate equitable owner if the ultimate equitable owner is an individual.

(C) The telephone number of the ultimate equitable owner, including the home telephone number if the ultimate equitable owner is an individual.

(D) The ultimate equitable owner's Social Security number and date of birth, if the ultimate equitable owner is an individual.

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(b) An application for registration as an originator shall be made on a registration form prescribed by the ~~commissioner~~ **commission**. The application must include the following information for the individual that seeks to be registered as an originator:

- (1) The name of the individual.
- (2) The home address of the individual.
- (3) The home telephone number of the individual.
- (4) The individual's Social Security number and date of birth.
- (5) The name of the:
 - (A) licensee; or
 - (B) applicant for licensure;
 for whom the individual seeks to be employed as an originator.
- (6) Consent to service of process under subsection (h).
- (7) Evidence that the individual has completed the education requirements described in section 21 of this chapter.
- (8) An application fee of one hundred dollars (\$100).
- (9) All registration numbers previously issued to the individual under this chapter, if applicable.

(c) An application for registration as a principal manager shall be made on a registration form prescribed by the ~~commissioner~~ **commission**. The application must include the following information for the individual who seeks to be registered as a principal manager:

- (1) The name of the individual.
- (2) The home address of the individual.
- (3) The home telephone number of the individual.
- (4) The individual's Social Security number and date of birth.
- (5) The name of the:
 - (A) licensee; or
 - (B) applicant for licensure;
 for whom the individual seeks to be employed as a principal manager.
- (6) Consent to service of process under subsection (h).
- (7) Evidence that the individual has completed the education requirements described in section 21 of this chapter.
- (8) Evidence that the individual has at least three (3) years of experience in the:
 - (A) loan brokerage; or
 - (B) financial services;
 business.
- (9) An application fee of two hundred dollars (\$200).
- (10) All registration numbers previously issued to the individual, if applicable.

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(d) The ~~commissioner~~ **commission** shall require an applicant for registration as:

(1) an originator under subsection (b); or

(2) a principal manager under subsection (c);

to pass a written examination prepared and administered by the ~~commissioner~~ **commission** or an agent appointed by the ~~commissioner~~ **commission**.

(e) A licensee must maintain a bond satisfactory to the ~~commissioner~~ **commission** in the amount of fifty thousand dollars (\$50,000), which shall be in favor of the state and shall secure payment of damages to any person aggrieved by any violation of this chapter by the licensee.

(f) The ~~commissioner~~ **commission** shall issue a license and license number to an applicant that meets the licensure requirements of this chapter. Whenever the registration provisions of this chapter have been complied with, the ~~commissioner~~ **commission** shall issue a certificate of registration and registration number authorizing the registrant to:

(1) engage in origination activities; or

(2) act as a principal manager;

whichever applies.

(g) Licenses and initial certificates of registration issued by the ~~commissioner~~ **commission** are valid until January 1 of the second year after issuance.

(h) Every applicant for licensure or registration or for renewal of a license or a registration shall file with the ~~commissioner~~ **commission**, in such form as the ~~commissioner~~ **commission** by rule or order prescribes, an irrevocable consent appointing the secretary of state to be the applicant's agent to receive service of any lawful process in any noncriminal suit, action, or proceeding against the applicant arising from the violation of any provision of this chapter. Service shall be made in accordance with the Indiana Rules of Trial Procedure.

(i) Upon good cause shown, the ~~commissioner~~ **commission** may waive the requirements of subsection (a)(4) for one (1) or more of an applicant's ultimate equitable owners, directors, managers, or officers.

(j) Whenever an initial or a renewal application for a license or registration is denied or withdrawn, the ~~commissioner~~ **commission** shall retain the initial or renewal application fee paid.

(k) The ~~commissioner~~ **commission** shall require each:

(1) equitable owner;

(2) individual described in subsection (a)(4); and

(3) applicant for registration as:

(A) an originator; or

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(B) a principal manager;
 to submit fingerprints for a national criminal history background check
 (as defined in IC 10-13-3-12) by the Federal Bureau of Investigation,
 for use by the ~~commissioner~~ **commission** in determining whether the
 equitable owner, the individual described in subsection (a)(4), or the
 applicant should be denied licensure or registration under this chapter
 for any reason set forth in section 10(c) of this chapter. The equitable
 owner, individual described in subsection (a)(4), or applicant shall pay
 any fees or costs associated with the fingerprints and background check
 required under this subsection. The ~~commissioner~~ **commission** may not
 release the results of a background check described in this subsection
 to any private entity.

SECTION 9. IC 23-2-5-6, AS AMENDED BY P.L.145-2008,
 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 JULY 1, 2009]: Sec. 6. A licensee may not continue engaging in the
 loan brokerage business unless the licensee's license is renewed
 biennially. A registrant may not continue:

- (1) engaging in origination activities; or
- (2) acting as a principal manager;

unless the registrant's certificate of registration is renewed biennially.
 A licensee shall renew its license by filing with the ~~commissioner~~,
commission, at least thirty (30) days before the expiration of the
 license, an application containing any information the ~~commissioner~~
commission may require to indicate any material change from the
 information contained in the applicant's original application or any
 previous application. A registrant may renew the registrant's certificate
 of registration by filing with the ~~commissioner~~, **commission**, at least
 thirty (30) days before the expiration of the registration, an application
 containing any information the ~~commissioner~~ **commission** may require
 to indicate any material change from the information contained in the
 applicant's original application or any previous application.

SECTION 10. IC 23-2-5-7, AS AMENDED BY P.L.27-2007,
 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 JULY 1, 2009]: Sec. 7. (a) The loan broker regulation account is
 created in the state general fund. The money in the loan broker
 regulation account may be used only for the regulation of loan brokers
 under this chapter. The loan broker regulation account shall be
 administered by the treasurer of state. The money in the loan broker
 regulation account does not revert to any other account within the state
 general fund at the end of a state fiscal year.

(b) Except as provided in subsection (c), all fees and funds accruing
 from the administration of this chapter shall be accounted for by the

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~~commissioner~~ **commission** and shall be deposited with the treasurer of state who shall deposit them in the loan broker regulation account in the state general fund.

(c) All expenses incurred in the administration of this chapter shall be paid from appropriations made from the state general fund. However, costs of investigations **shall be paid from**, and civil penalties recovered under this chapter shall be deposited in, the securities division enforcement account created under IC 23-19-6-1(f). The funds in the securities division enforcement account shall be available, with the approval of the budget agency, to augment and supplement the funds appropriated for the administration of this chapter.

SECTION 11. IC 23-2-5-9.1, AS ADDED BY P.L.230-2007, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9.1. (a) As used in this section, "appraisal company" means a person that employs or retains the services of one (1) or more real estate appraisers.

(b) As used in this section, "immediate family", with respect to an individual, refers to:

- (1) the individual's spouse who resides in the individual's household; and
- (2) any dependent child of the individual.

(c) As used in this section, "real estate appraiser" means a person who:

- (1) is licensed as a real estate broker under IC 25-34.1 and performs real estate appraisals within the scope of the person's license; or
- (2) holds a real estate appraiser license or certificate issued under IC 25-34.1-8.

(d) A person licensed or registered under this chapter, or a person required to be licensed or registered under this chapter, shall not knowingly bribe, coerce, or intimidate another person to corrupt or improperly influence the independent judgment of a real estate appraiser with respect to the value of any real estate offered as security for a mortgage loan.

(e) Except as provided in subsection (f), after June 30, 2007:

- (1) a person licensed or registered under this chapter, or a person required to be licensed or registered under this chapter;
- (2) a member of the immediate family of:
 - (A) a person licensed or registered under this chapter; or
 - (B) a person required to be licensed or registered under this chapter; or

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(3) a person described in subdivision (1) or (2) in combination with one (1) or more other persons described in subdivision (1) or (2);

may not own or control a majority interest in an appraisal company.

(f) This subsection applies to a person or combination of persons described in subsection (e) who own or control a majority interest in an appraisal company on June 30, 2007. The prohibition set forth in subsection (e) does not apply to a person or combination of persons described in this subsection, subject to the following:

(1) The interest in the appraisal company owned or controlled by the person or combination of persons described in subsection (e) shall not be increased after June 30, 2007.

(2) The interest of a person licensed or registered under this chapter, or of a person required to be licensed or registered under this chapter, shall not be transferred to a member of the person's immediate family.

(3) If the ~~commissioner~~ **commission** determines that any person or combination of persons described in subsection (e) has violated this chapter, the ~~commissioner~~ **commission** may order one (1) or more of the persons to divest their interest in the appraisal company. The ~~commissioner~~ **commission** may exercise the remedy provided by this subdivision in addition to, or as a substitute for, any other remedy available to the ~~commissioner~~ **commission** under this chapter.

SECTION 12. IC 23-2-5-10, AS AMENDED BY P.L.145-2008, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. (a) Whenever it appears to the ~~commissioner~~ **commission** that a person has engaged in or is about to engage in an act or a practice constituting a violation of this chapter or a rule or an order under this chapter, the ~~commissioner~~ **commission** may investigate and may issue, with a prior hearing if there exists no substantial threat of immediate irreparable harm or without a prior hearing, if there exists a substantial threat of immediate irreparable harm, orders and notices as the ~~commissioner~~ **commission** determines to be in the public interest, including cease and desist orders, orders to show cause, and notices. After notice and hearing, the ~~commissioner~~ **commission** may enter an order of rescission, restitution, or disgorgement, including interest at the rate of eight percent (8%) per year, directed to a person who has violated this chapter or a rule or order under this chapter.

(b) Upon the issuance of an order or notice without a prior hearing by the ~~commissioner~~ **commission** under subsection (a), the

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1 ~~commissioner~~ **commission** shall promptly notify the respondent and,
 2 if the subject of the order or notice is a registrant, the licensee for
 3 whom the registrant is employed:

- 4 (1) that the order or notice has been issued;
- 5 (2) of the reasons the order or notice has been issued; and
- 6 (3) that upon the receipt of a written request the matter will be set
 7 down for a hearing to commence within fifteen (15) business days
 8 after receipt of the request unless the respondent consents to a
 9 later date.

10 If a hearing is not requested and not ordered by the ~~commissioner~~,
 11 **commission**, an order remains in effect until it is modified or vacated
 12 by the ~~commissioner~~, **commission**. If a hearing is requested or ordered,
 13 the ~~commissioner~~, **commission**, after notice of an opportunity for
 14 hearing, may modify or vacate the order or extend it until final
 15 determination.

16 (c) The ~~commissioner~~ **commission** may deny an application for an
 17 initial or a renewal license or registration, and may suspend or revoke
 18 the license of a licensee or the registration of a registrant if the
 19 applicant, the licensee, the registrant, or an ultimate equitable owner of
 20 an applicant or of a licensee:

- 21 (1) fails to maintain the bond required under section 5 of this
 22 chapter;
- 23 (2) has, within the most recent ten (10) years:
 - 24 (A) been the subject of an adjudication or a determination by:
 - 25 (i) a court with jurisdiction; or
 - 26 (ii) an agency or administrator that regulates securities,
 27 commodities, banking, financial services, insurance, real
 28 estate, or the real estate appraisal industry;
 - 29 in Indiana or in any other jurisdiction; and
 - 30 (B) been found, after notice and opportunity for hearing, to
 31 have violated the securities, commodities, banking, financial
 32 services, insurance, real estate, or real estate appraisal laws of
 33 Indiana or any other jurisdiction;
- 34 (3) has:
 - 35 (A) been denied the right to do business in the securities,
 36 commodities, banking, financial services, insurance, real
 37 estate, or real estate appraisal industry; or
 - 38 (B) had the person's authority to do business in the securities,
 39 commodities, banking, financial services, insurance, real
 40 estate, or real estate appraisal industry revoked or suspended;
 41 by Indiana or by any other state, federal, or foreign governmental
 42 agency or self regulatory organization;

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- (4) is insolvent;
 (5) has violated any provision of this chapter;
 (6) has knowingly filed with the **commission or, before July 1, 2009, the commissioner**, any document or statement that:
 (A) contains a false representation of a material fact;
 (B) fails to state a material fact; or
 (C) contains a representation that becomes false after the filing but during the term of a license or certificate of registration as provided in subsection (i);
 (7) has:
 (A) been convicted, within ten (10) years before the date of the application, renewal, or review, of any crime involving fraud or deceit; or
 (B) had a felony conviction (as defined in IC 35-50-2-1(b)) within five (5) years before the date of the application, renewal, or review;
 (8) if the person is a licensee or principal manager, has failed to reasonably supervise the person's originators or employees to ensure their compliance with this chapter;
 (9) is on the most recent tax warrant list supplied to the: **commissioner**
 (A) **commission** by the department of state revenue; or
 (B) **commissioner by the department of state revenue, if the most recent tax warrant list was supplied before July 1, 2009; or**
 (10) has engaged in dishonest or unethical practices in the loan broker business, as determined by the **commissioner: commission.**
 (d) The **commissioner commission** may do either of the following:
 (1) Censure:
 (A) a licensee;
 (B) an officer, a director, or an ultimate equitable owner of a licensee;
 (C) a registrant; or
 (D) any other person;
 who violates or causes a violation of this chapter.
 (2) Permanently bar any person described in subdivision (1) from being:
 (A) licensed or registered under this chapter; or
 (B) employed by or affiliated with a person licensed or registered under this chapter;
 if the person violates or causes a violation of this chapter.

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(e) The ~~commissioner~~ **commission** may not enter a final order:

(1) denying, suspending, or revoking the license of a licensee or the registration of a registrant; or

(2) imposing other sanctions;

without prior notice to all interested parties, opportunity for a hearing, and written findings of fact and conclusions of law. However, the ~~commissioner~~ **commission** may by summary order deny, suspend, or revoke a license or certificate of registration pending final determination of any proceeding under this section or before any proceeding is initiated under this section. Upon the entry of a summary order, the ~~commissioner~~ **commission** shall promptly notify all interested parties that the summary order has been entered, of the reasons for the summary order, and that upon receipt by the ~~commissioner~~ **commission** of a written request from a party, the matter will be set for hearing to commence within fifteen (15) business days after receipt of the request. If no hearing is requested and none is ordered by the ~~commissioner~~; **commission**, the order remains in effect until it is modified or vacated by the ~~commissioner~~; **commission**. If a hearing is requested or ordered, the ~~commissioner~~; **commission**, after notice of the hearing has been given to all interested persons and the hearing has been held, may modify or vacate the order or extend it until final determination.

(f) IC 4-21.5 does not apply to a proceeding under this section.

(g) If a registrant seeks to transfer the registrant's registration to another licensee who desires to have the registrant engage in origination activities or serve as a principal manager, whichever applies, the registrant shall, before the registrant conducts origination activities or serves as a principal manager for the new employer, submit to the ~~commissioner~~; **commission**, on a form prescribed by the ~~commissioner~~; **commission**, a registration application, as required by section 5 of this chapter.

(h) If the employment of a registrant is terminated, whether:

(1) voluntarily by the registrant; or

(2) by the licensee employing the registrant;

the licensee that employed the registrant shall, not later than five (5) days after the termination, notify the ~~commissioner~~ **commission** of the termination and the reasons for the termination.

(i) If a material fact or statement included in an application under this chapter changes after the application has been submitted, the applicant shall provide written notice to the ~~commissioner~~ **commission** of the change. The ~~commissioner~~ **commission** may revoke or refuse to renew the license or registration of any person who:

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(1) is required to submit a written notice under this subsection and fails to provide the required notice within two (2) business days after the person discovers or should have discovered the change; or

(2) would not qualify for licensure or registration under this chapter as a result of the change in a material fact or statement.

SECTION 13. IC 23-2-5-11, AS AMENDED BY P.L.145-2008, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 11. (a) The ~~commissioner~~ **commission** may do the following:

(1) Adopt rules under IC 4-22-2 to implement this chapter.

(2) Make investigations and examinations:

(A) in connection with any application for licensure or for registration ~~of a licensee or registrant~~ or with any license or certificate of registration already granted; or

(B) whenever it appears to the ~~commissioner~~, **commission**, upon the basis of a complaint or information, that reasonable grounds exist for the belief that an investigation or examination is necessary or advisable for the more complete protection of the interests of the public.

(3) Charge as costs of investigation or examination all reasonable expenses, including a per diem ~~prorated upon the salary of the commissioner or employee for a commission member or an employee or agent of the commission conducting the investigation or examination~~ and actual traveling and hotel expenses. All reasonable expenses are to be paid by the party or parties under investigation or examination if the party has violated this chapter.

(4) Issue notices and orders, including cease and desist notices and orders, after making an investigation or examination under subdivision (2). The ~~commissioner~~ **commission** may also bring an action on behalf of the state to enjoin a person from violating this chapter. The ~~commissioner~~ **commission** shall notify the person that an order or notice has been issued, the reasons for it, and that a hearing will be set within fifteen (15) days after the ~~commissioner~~ **commission** receives a written request from the person requesting a hearing.

(5) Sign, **under the signature of the chair or another commission member to whom such authority is delegated by the chair**, all orders, official certifications, documents, or papers issued under this chapter. ~~or delegate the authority to sign any of those items to a deputy.~~

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- (6) Hold and conduct hearings.
- (7) Hear evidence.
- (8) Conduct inquiries with or without hearings.
- (9) Receive reports of investigators or other officers or employees of the state of Indiana or of any municipal corporation or governmental subdivision within the state.
- (10) Administer oaths, or cause them to be administered.
- (11) Subpoena witnesses, and compel them to attend and testify.
- (12) Compel the production of books, records, and other documents.
- (13) Order depositions to be taken of any witness residing within or without the state. The depositions shall be taken in the manner prescribed by law for depositions in civil actions and made returnable to the ~~commissioner~~ **commission**.
- (14) Order that each witness appearing under the ~~commissioner's~~ **commission's** order to testify before the ~~commissioner~~ **commission** shall receive the fees and mileage allowances provided for witnesses in civil cases.
- (15) Provide interpretive opinions or issue determinations that the ~~commissioner~~ **commission** will not institute a proceeding or an action under this chapter against a specified person for engaging in a specified act, practice, or course of business if the determination is consistent with this chapter. The ~~commissioner~~ **commission** may adopt rules to establish fees for individuals requesting an interpretive opinion or a determination under this subdivision. A person may not request an interpretive opinion or a determination concerning an activity that:
 - (A) occurred before; or
 - (B) is occurring on;
 the date the opinion or determination is requested.
- (16) Subject to subsection (f), designate a multistate automated licensing system and repository, established and operated by a third party, to serve as the sole entity responsible for:
 - (A) processing applications for:
 - (i) licenses and certificates of registration under this chapter; and
 - (ii) renewals of licenses and certificates of registration under this chapter; and
 - (B) performing other services that the ~~commissioner~~ **commission** determines are necessary for the orderly administration of the ~~division's~~ **commission's** licensing and registration system.

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A multistate automated licensing system and repository described in this subdivision may include the National Mortgage Licensing System established by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators. The ~~commissioner~~ **commission** may take any action necessary to allow the ~~division~~ **commission** to participate in a multistate automated licensing system and repository.

(17) With the approval of the budget agency, employ and fix the compensation of attorneys, investigators, accountants, clerks, stenographers, and other employees necessary for the administration of this chapter. The compensation of the commission's staff shall be paid out of the state general fund as provided under section 7(c) of this chapter. With the consent of the commissioner, the commission may employ or make use of staff who are:

(A) employed in the securities division of the office of the secretary of state under IC 23-19-6-1(b); and

(B) qualified by knowledge or experience in the regulation of the loan brokerage business in Indiana;

to conduct or assist with investigations or examinations under this chapter or to otherwise assist the commission in the performance of its duties under this chapter, to the extent that the commissioner determines that the division's staffing resources can reasonably be devoted to such activities.

(18) With the approval of the budget agency, employ additional attorneys, investigators, accountants, clerks, stenographers, or consultants, for such compensation and length of time as the budget agency approves, for a particular case or investigation. The compensation for the additional personnel and any travel expenses or other expenses actually incurred in connection with the personnel's work for the commission shall be paid out of the state general fund as provided under section 7(c) of this chapter on warrants drawn by the auditor of state and sworn to by the persons who incurred the expenses.

(b) If a witness, in any hearing, inquiry, or investigation conducted under this chapter, refuses to answer any question or produce any item, the ~~commissioner~~ **commission may file a written petition with the circuit or superior court in the county where the hearing, investigation, or inquiry in question is being conducted requesting a hearing on the refusal. The court shall hold a hearing to determine if the witness may refuse to answer the question or produce the item. If the court**

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determines that the witness, based upon the witness's privilege against self-incrimination, may properly refuse to answer or produce an item, the ~~commissioner~~ **commission** may make a written request that the court grant use immunity to the witness. Upon written request of the ~~commissioner~~, **commission**, the court shall grant use immunity to a witness. The court shall instruct the witness, by written order or in open court, that:

- (1) any evidence the witness gives, or evidence derived from that evidence, may not be used in any criminal proceedings against that witness, unless the evidence is volunteered by the witness or is not responsive to a question; and
- (2) the witness must answer the questions asked and produce the items requested.

A grant of use immunity does not prohibit evidence that the witness gives in a hearing, investigation, or inquiry from being used in a prosecution for perjury under IC 35-44-2-1. If a witness refuses to give the evidence after the witness has been granted use immunity, the court may find the witness in contempt.

(c) In any prosecution, action, suit, or proceeding based upon or arising out of this chapter, the ~~commissioner~~ **commission** may sign a certificate showing compliance or noncompliance with this chapter by any person. This shall constitute prima facie evidence of compliance or noncompliance with this chapter and shall be admissible in evidence in any action at law or in equity to enforce this chapter.

(d) If:

- (1) a person disobeys any lawful:
 - (A) subpoena issued under this chapter; or
 - (B) order or demand requiring the production of any books, accounts, papers, records, documents, or other evidence or information as provided in this chapter; or
- (2) a witness refuses to:
 - (A) appear when subpoenaed;
 - (B) testify to any matter about which the witness may be lawfully interrogated; or
 - (C) take or subscribe to any oath required by this chapter;

the circuit or superior court of the county in which the hearing, inquiry, or investigation in question is held, if demand is made or if, upon written petition, the production is ordered to be made, or the ~~commissioner~~ **commission** or a hearing officer appointed by the ~~commissioner~~, **commission**, shall compel compliance with the lawful requirements of the subpoena, order, or demand, compel the production of the necessary or required books, papers, records, documents, and

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other evidence and information, and compel any witness to attend in any Indiana county and to testify to any matter about which the witness may lawfully be interrogated, and to take or subscribe to any oath required.

(e) If a person fails, refuses, or neglects to comply with a court order under this section, the person shall be punished for contempt of court.

(f) The ~~commissioner's~~ **commission's** authority to designate a multistate automated licensing system and repository under subsection (a)(16) is subject to the following:

(1) The ~~commissioner~~ **commission** may not require any person exempt from licensure or registration under this chapter, or any employee or agent of an exempt person, to:

(A) submit information to; or

(B) participate in;

the multistate automated licensing system and repository.

(2) The ~~commissioner~~ **commission** may require a person required under this chapter to submit information to the multistate automated licensing system and repository to pay a processing fee considered reasonable by the ~~commissioner~~ **commission**.

SECTION 14. IC 23-2-5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. Copies of any statement or document filed with the ~~commissioner~~ **commission**, and copies of any records of the ~~commissioner~~ **commission**, certified to by the ~~commissioner or any deputy~~ **commission** are admissible in any prosecution, action, suit, or proceeding based upon, or arising out of or under, the provisions of this chapter to the same effect as the original of the statement, document, or record would be if actually produced.

SECTION 15. IC 23-2-5-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 13. Upon:

(1) disobedience on the part of any person to any lawful subpoena issued under this chapter, or to any lawful order or demand requiring the production of any books, accounts, papers, records, documents, or other evidence or information as provided in this chapter; or

(2) the refusal of any witness to appear when subpoenaed, to testify to any matter regarding which the witness may be lawfully interrogated, or to take or subscribe to any oath required by this chapter;

it shall be the duty of the circuit or superior court of the county in which the hearing or inquiry or investigation in question is being or is to be held, where demand is made, or where the production is ordered to be made, upon written petition of the ~~commissioner~~ **commission**, to

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1 compel obedience to the lawful requirements of the subpoena, order,
2 or demand.

3 SECTION 16. IC 23-2-5-14 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 14. (a) If the
5 ~~commissioner~~ **commission** determines, after a hearing, that a person
6 has violated this chapter, the ~~commissioner~~ **commission** may, in
7 addition to all other remedies, impose a civil penalty upon the person
8 in an amount not to exceed ten thousand dollars (\$10,000) for each
9 violation.

10 (b) The ~~commissioner~~ **commission** may bring an action in the
11 circuit or superior court of Marion County to enforce payment of any
12 penalty imposed under this section.

13 SECTION 17. IC 23-2-5-16, AS AMENDED BY P.L.230-2007,
14 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
15 JULY 1, 2009]: Sec. 16. (a) Except as provided in subsection (b), a
16 person who knowingly violates this chapter commits a Class D felony.

17 (b) A person commits a Class C felony if the person knowingly
18 makes or causes to be made:

19 (1) in any document filed with or sent to the: ~~commissioner~~

20 **(A) commission; or the**

21 **(B) securities division, if the document is filed or sent before**
22 **July 1, 2009; or**

23 (2) in any proceeding, investigation, or examination under this
24 chapter;

25 any statement that is, at the time and in the light of the circumstances
26 under which it is made, false or misleading in any material respect.

27 SECTION 18. IC 23-2-5-18, AS AMENDED BY P.L.145-2008,
28 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
29 JULY 1, 2009]: Sec. 18. (a) Each loan broker agreement shall be given
30 an account number. Each person licensed or required to be licensed
31 under this chapter shall keep and maintain the following records or
32 their electronic equivalent:

33 (1) A file for each borrower or proposed borrower that contains
34 the following:

35 (A) The name and address of the borrower or any proposed
36 borrower.

37 (B) A copy of the signed loan broker agreement.

38 (C) A copy of any other papers or instruments used in
39 connection with the loan broker agreement and signed by the
40 borrower or any proposed borrower.

41 (D) If a loan was obtained for the borrower, the name and
42 address of the creditor.

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- 1 (E) If a loan is accepted by the borrower, a copy of the loan
 2 agreement.
 3 (F) The amount of the loan broker's fee that the borrower has
 4 paid. If there is an unpaid balance, the status of any collection
 5 efforts.
 6 (2) All receipts from or for the account of borrowers or any
 7 proposed borrowers and all disbursements to or for the account of
 8 borrowers or any proposed borrowers, recorded so that the
 9 transactions are readily identifiable.
 10 (3) A general ledger that shall be posted at least monthly, and a
 11 trial balance sheet and profit and loss statement prepared within
 12 thirty (30) days of the ~~commissioner's~~ **commission's** request for
 13 the information.
 14 (4) A sample of:
 15 (A) all advertisements, pamphlets, circulars, letters, articles,
 16 or communications published in any newspaper, magazine, or
 17 periodical;
 18 (B) scripts of any recording, radio, or television
 19 announcement; and
 20 (C) any sales kits or literature;
 21 to be used in solicitation of borrowers.
 22 (b) The records listed in subsection (a) shall be kept for a period of
 23 two (2) years in the loan broker's principal office and must be separate
 24 or readily identifiable from the records of any other business that is
 25 conducted in the office of the loan broker.
 26 (c) If a breach of the security of any records:
 27 (1) maintained by a loan broker under this section; and
 28 (2) containing the unencrypted, unredacted personal information
 29 of one (1) or more borrowers or prospective borrowers;
 30 occurs, the loan broker is subject to the disclosure requirements under
 31 IC 24-4.9-3, unless the loan broker is exempt from the disclosure
 32 requirements under IC 24-4.9-3-4.
 33 (d) A person who is:
 34 (1) licensed or required to be licensed under this chapter; or
 35 (2) registered or required to be registered under this chapter;
 36 may not dispose of the unencrypted, unredacted personal information
 37 of one (1) or more borrowers or prospective borrowers without first
 38 shredding, incinerating, mutilating, erasing, or otherwise rendering the
 39 information illegible or unusable.
 40 SECTION 19. IC 23-2-5-21, AS AMENDED BY P.L.230-2007,
 41 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 42 JULY 1, 2009]: Sec. 21. (a) A person applying for an initial license or

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1 certificate of registration must provide to the ~~commissioner~~
 2 **commission** evidence that during the twenty-four (24) month period
 3 immediately preceding the application that the person completed at
 4 least twenty-four (24) hours of academic instruction, acceptable to the
 5 ~~commissioner~~, **commission**, related to the loan brokerage business. To
 6 maintain a license or registration under this chapter, a person must
 7 provide to the ~~commissioner~~ **commission** evidence that the person has
 8 completed at least six (6) hours of academic instruction that is:

9 (1) acceptable to the ~~commissioner~~, **commission**; and

10 (2) related to the loan brokerage business;

11 during each calendar year after the year in which the license or
 12 registration was initially issued.

13 (b) In determining the acceptability of academic instruction the
 14 ~~commissioner~~ **commission** shall give consideration to approval of a
 15 licensee's internal academic instruction programs completed by
 16 employees.

17 (c) In determining the acceptability of an education course, the
 18 ~~commissioner~~ **commission** may require a fee, in an amount prescribed
 19 by the ~~commissioner~~ **commission** by rule or order, for the
 20 ~~commissioner's~~ **commission's** review of the course.

21 SECTION 20. IC 23-2-5-22, AS AMENDED BY P.L.145-2008,
 22 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 23 JULY 1, 2009]: Sec. 22. (a) An appeal may be taken by:

24 (1) any person whose application for an initial or a renewal
 25 license under this chapter is granted or denied, from any final
 26 order of the ~~commissioner~~ **commission** concerning the
 27 application;

28 (2) any applicant for initial or renewed registration as a principal
 29 manager or an originator, from any final order of the
 30 ~~commissioner~~ **commission** affecting the application;

31 (3) any person against whom a civil penalty is imposed under
 32 section 14(a) of this chapter, from the final order of the
 33 ~~commissioner~~ **commission** imposing the civil penalty; or

34 (4) any person who is named as a respondent, from any final order
 35 issued by the ~~commissioner~~ **commission** under section 10 or 11
 36 of this chapter;

37 to the Marion circuit court or to the circuit or superior court of the
 38 county where the person taking the appeal resides or maintains a place
 39 of business.

40 (b) Not later than twenty (20) days after the entry of the order, the
 41 ~~commissioner~~ **commission** shall be served with:

42 (1) a written notice of the appeal stating the court to which the

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1 appeal will be taken and the grounds upon which a reversal of the
2 final order is sought;

3 (2) a demand in writing from the appellant for a certified
4 transcript of the record and of all papers on file in the
5 ~~commissioner's~~ **commission's** office affecting or relating to the
6 order; and

7 (3) a bond in the penal sum of five hundred dollars (\$500) to the
8 state of Indiana with sufficient surety to be approved by the
9 ~~commissioner,~~ **commission,** conditioned upon the faithful
10 prosecution of the appeal to final judgment and the payment of all
11 costs that are adjudged against the appellant.

12 (c) Not later than ten (10) days after the ~~commissioner~~ **commission**
13 is served with the items listed in subsection (b), the ~~commissioner~~
14 **commission** shall make, certify, and deliver to the appellant the
15 transcript, and the appellant shall, not later than five (5) days after the
16 date the appellant receives the transcript, file the transcript and a copy
17 of the notice of appeal with the clerk of the court. The notice of appeal
18 serves as the appellant's complaint. The ~~commissioner~~ **commission**
19 may appear and file any motion or pleading and form the issue. The
20 cause shall be entered on the trial calendar for trial de novo and given
21 precedence over all matters pending in the court.

22 (d) The court shall receive and consider any pertinent oral or written
23 evidence concerning the order of the ~~commissioner~~ **commission** from
24 which the appeal is taken. If the order of the ~~commissioner~~ **commission**
25 is reversed, the court shall in its mandate specifically direct the
26 ~~commissioner~~ **commission** as to the ~~commissioner's~~ **commission's**
27 further action in the matter. The ~~commissioner~~ **commission** is not
28 barred from revoking or altering the order for any proper cause that
29 accrues or is discovered after the order is entered. If the order is
30 affirmed, the appellant is not barred after thirty (30) days from the date
31 the order is affirmed from filing a new application if the application is
32 not otherwise barred or limited. During the pendency of the appeal, the
33 order from which the appeal is taken is not suspended but remains in
34 effect unless otherwise ordered by the court. An appeal may be taken
35 from the judgment of the court on the same terms and conditions as an
36 appeal is taken in civil actions.

37 SECTION 21. [EFFECTIVE JULY 1, 2009] (a) **The definitions in**
38 **IC 23-2-5, as amended by this act, apply throughout this**
39 **SECTION.**

40 (b) **The duties conferred on the office of the secretary of state**
41 **relating to the licensing of loan brokers and the registration of**
42 **originators and principal managers under IC 23-2-5, before its**

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1 amendment by this act, are transferred to the commission on July
2 1, 2009.

3 (c) The rules adopted by the office of the secretary of state
4 concerning the licensing of loan brokers and the registration of
5 originators and principal managers under IC 23-2-5, before its
6 amendment by this act, are considered, after June 30, 2009, rules
7 of the commission until the commission adopts replacement rules.

8 (d) On July 1, 2009, the commission becomes the owner of all
9 property of the office of the secretary of state relating to the
10 licensing of loan brokers and the registration of originators and
11 principal managers under IC 23-2-5, before its amendment by this
12 act.

13 (e) Any appropriation to the office of the secretary of state and
14 funds relating to the licensing of loan brokers and the registration
15 of originators and principal managers under IC 23-2-5, before its
16 amendment by this act, under the control or supervision of the
17 office of the secretary of state on June 30, 2009, are transferred to
18 the control and supervision of the commission on July 1, 2009.

19 (f) This SECTION expires January 1, 2010.

20 SECTION 22. [EFFECTIVE UPON PASSAGE] (a) As used in this
21 SECTION, "commission" refers to the Indiana loan broker
22 commission established by IC 23-2-5-3.3, as added by this act.

23 (b) Notwithstanding IC 23-2-5-3.3(c), as added by this act, not
24 later than June 1, 2009, the governor shall appoint the initial
25 members of the commission under IC 23-2-5-3.3(b)(2), as added by
26 this act, as follows:

27 (1) Three (3) members of the commission appointed under
28 IC 23-2-5-3.3(b)(2)(A) to serve for a term of four (4) years. To
29 the extent practicable, the initial members appointed under
30 this subdivision shall be selected from among the state's
31 congressional districts so as to give representation to the
32 various geographical areas of Indiana.

33 (2) Five (5) members of the commission to serve a term of
34 three (3) years, as follows:

35 (A) Three (3) members of the commission appointed under
36 IC 23-2-5-3.3(b)(2)(A). To the extent practicable, the initial
37 members appointed under this clause shall be selected
38 from among the state's congressional districts so as to give
39 representation to the various geographical areas of
40 Indiana.

41 (B) The member appointed under IC 23-2-5-3.3(b)(2)(B).

42 (C) One (1) member appointed under

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- 1 **IC 23-2-5-3.3(b)(2)(C).**
 2 **(3) Four (4) members of the commission to serve a term of two**
 3 **(2) years, as follows:**
 4 **(A) Three (3) members of the commission appointed under**
 5 **IC 23-2-5-3.3(b)(2)(A). To the extent practicable, the initial**
 6 **members appointed under this clause shall be selected**
 7 **from among the state's congressional districts so as to give**
 8 **representation to the various geographical areas of**
 9 **Indiana.**
 10 **(B) One (1) member appointed under**
 11 **IC 23-2-5-3.3(b)(2)(C).**
 12 **(c) Upon the expiration of the terms of the initial members**
 13 **appointed under this SECTION, their successors shall be**
 14 **appointed for terms of four (4) years, as provided in**
 15 **IC 23-2-5-3.3(c), as added by this act.**
 16 **(d) This SECTION expires January 1, 2014.**
 17 **SECTION 23. An emergency is declared for this act.**

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